Supreme Court, U.S.
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No. 82-1053

IN THE

Supreme Court of the United States

October Term, 1982

LILLIAN M. HAAS, Personal Representative of the Estate of and Parent and Next of Kin of John V. Cataldi, Deceased; CHERYL RUFF, Personal Representative of the Estate of and Widow of and Next of Kin of Edwin J. Ruff, Jr., Deceased; BETTY LOU SCHLECTIC BAHE, as Guardian and Next Friend of Ginger Schlectic, Minor Child of Ralph C. Schlectic, Deceased, and JULIA KATHLEEN McDONALD LAMASCUS, Personal Representative of the Estate of and Widow of and Next of Kin of Mark Lamascus, Deceased; and JULIA KATHLEEN McDONALD LAMASCUS as Guardian and Next Friend of Sarah Laine Lamascus and Mark David Lamascus, Minor Children of Mark Lamascus, Deceased,

Appellants,

v.

UNITED TECHNOLOGIES CORPORATION, a Delaware Corporation,

Appellee.

On Appeal From the Supreme Court of Delaware

MOTION TO DISMISS OR AFFIRM AND APPENDIX

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QUESTIONS PRESENTED BY THE APPEAL

I. Should this Court overrule its own well-established decisions holding that the states are empowered to establish their own procedures, including special jury procedures, for selecting and impaneling juries in state court civil trials?

II. Should this Court consider the "potential" that a special jury procedure may be abused, or used in a case when it is not appropriate, although those questions do not arise in this case where the procedures were not abused, and where a directed verdict was appropriate, and the case was, as conceded by appellants, a special case appropriate for trial before a special jury?

III. Should this Court consider the alleged issues in this case where no adequate record was made by appellants to present the issues and appellants never complained about a special jury at trial or in their appeal to the Delaware Supreme Court?

IV. Should this Court consider the validity of rules which caused no abuse of appellants' rights and which rules will soon be superseded?

V. Was this appeal taken in conformity with the United States Supreme Court Rules?

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The Appellee, United Technologies Corporation ("United Technologies"),* moves the Court to dismiss the appeal herein on the grounds that it does not present a substantial federal question, that appellants did not properly raise the issues on which the appeal is based in the courts below, that the judgment rests on an adequate non-federal basis and that the appeal was not taken in conformity with the United States Supreme Court Rules. In the alternative, United Technologies moves the Court to affirm the judgment of the Supreme Court of Delaware on the ground that it is manifest that the questions on which the decision of the cause depends are so unsubstantial as not to need further argument.

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* United Technologies has no parent companies. It has no domestic affiliates and no domestic subsidiaries not wholly owned by United Technologies. Its only foreign affiliates and subsidiaries are Pratt & Whitney Aircraft of Canada, Hamilton Standard Stork, B. V., Hamilton Standard Ltd., Precilec S. A., Ratier-Forest-G. S. P., Societe Nationale des Etudes et de Construction de Moteurs d'Aviacion and S. P. Elettronita, S. p. A.

STATEMENT OF THE CASE

"Red Blade BIM Black Again, Again & Again!" (Written statement on maintenance records the morning before the helicopter took off on its fatal flight). Appendix to Appellee's Motion to Dismiss or Affirm at 1b; 2b-3b; 4b (hereinafter cited by reference to the page).

"If there has been a loss of spar pressure the blade must be replaced." (Statement in Maintenance Manual). 5b; 6b; 7b-8b.

"We had just missed it." 9b (Major Steward).

A. The Underlying Claim

The appellants' decedents in this case were killed as the result of a crash on January 8, 1975 of a Sikorsky CH-53 helicopter manufactured five years before the crash by appellee, United Technologies, and owned, operated and maintained by the military during that five years. The crash resulted from the fracture of one of the six main rotary blades of the helicopter. The unrebutted evidence in this case established that it is not possible to design and manufacture a rotary blade which may not eventually crack after prolonged usage. 10b, 11b. Therefore, the helicopter was equipped with a warning system known as a "BIM" (an acronym for "Blade Inspection Method") which turned from white to black when the pressure of the nitrogen, with which the blade was filled, was reduced by leakage through an incipient crack. The testimony established, obviously to the jury's satisfaction, that the warning system in this case performed as designed and gave repeated warnings on at least four successive days before the date of the fatal flight (January 4, 5, 6, and 7) that a failure of the rotary blade would occur, alerting the maintenance crew and the flight crew, both of whom had each warning brought to their attention, of the urgent necessity of replacing the blade.

The morning before the helicopter took off on its fatal flight the stark dramatic warning in the first quotation above appeared on the maintenance records.

The authorized procedure in the event of a warning from the BIM and a loss of pressure, as occurred on each occasion in this case, according to the evidence, was to remove the blade and replace it with a new one. Maintenance personnel failed to respond to the warnings in accordance with the manufacturer's instructions with which they were familiar from the appropriate service manuals (see second quotation above), and instead of removing the blade, the military took the easy step of merely pumping the blade back up with nitrogen despite the obvious danger. Their defective response was documented by the unchallenged written maintenance records. Subsequent investigations of the accident by the Marines and by the Navy found the cause of the crash to be this negligent performance of their duties by maintenance personnel, together with a failure by the captain and his crew to take indicated precautionary steps. 12b-25b; 26b-29b. The head of maintenance at the airbase bluntly admitted: "We had just missed it." 9b. No blame was attributed to the manufacturer, United Technologies. Obviously the jury concurred with the self-critical findings by the military investigating bodies. They rejected the contention that a second, redundant warning system was reasonably necessary, since the long crack propagation time furnished an adequate warning between flights (as it had in this case) when the helicopter was on the ground and could be repaired.

At the trial, appellants' own expert, Cunitz, testified that the real cause of the crash was the failure to detect the crack in time. 30b. But only the military maintenance personnel, not United Technologies, could have discovered the cracked blade in this case in time to remove or repair

it. Appellants' own witness Goldberg conceded the accident would not have happened if the military had responded to the black BIM and removed the blade. 31b. Those maintenance personnel were responsible for the repair and overhaul of this aircraft, and they had the last opportunity to prevent it. United Technologies had no such opportunity. Furthermore, had the pilot, Ruff, refused to fly in the face of these repeated warnings, or had Ruff, Schlectic or Cataldi followed the instructions they received for a run-up and shut-down and further check, this crash would not have occurred. They had that opportunity to prevent the crash, but United Technologies did not.

B. Selection of the Special Jury

The appellants made no adequate record in this case relating to the process of selecting this jury. There is no evidence whatsoever to show that the jury pool, from which the panel was selected, was "heavily skewed in favor of white, middle-aged, well-educated, economically secure males." Appellants' Jurisdictional Statement (hereinafter "AJS") at 9. Indeed, this is not true even of the jury panel itself (as distinguished from the jury pool) which, among its twelve jurors and six alternates, originally included five women (AJS Appendix at 103a) (hereinafter cited by reference to the page), and would have included more had not the appellants themselves challenged two women (and one woman was excused by the Judge). Even the panel included a juror without a high school education (118a), jurors without college degrees (118a), a non-white (118a) and females (118a). There is no record of the economic status of the jurors (118a).[1]

1. We find no support in the record for appellants' statement at AJS 9 that "only one person in 263 did not have a high school education." Evidently the figure of 263 is the total number in the

While it is true that the Court administrator's affidavit, which was not obtained and filed until after the trial was over, states that the jury commissioners had excluded persons having twelve years or less of formal education or persons who were under the age of thirty or over the age of seventy, the record here shows that there were persons in the jury pool who were under the age of thirty or over the age of seventy, and it was not established when they were drawn. In any event, it is clear that age and education are perfectly valid criteria for a state to utilize. *See infra.*

Appellants at AJS 10 n. 5 complain that the decision in this case was rendered by a jury that was 84% male, consisting of ten (10) men and two (2) women. However, appellants overlook the fact that it is the jury pool that is important in a case of this kind, not the actual jury panel, which may vary in composition solely as a result of the luck of the draw or challenges (in this case appellants challenged two (2) women). This disparity did not exist in the jury pool.[2]

C. Decisions of the Courts Below

1. The Trial Court Opinion Upholding the Special Jury Practice.

Appellants seem to complain that the lower court held that 10 *Del. C.* §§ 4501 *et seq.* (1982 Cum. Supp.)

1. (Cont'd.)

pool, while the figure of one represents the number on the *panel*. Appellants cite as authority in the record mere contentions in their motion in the court below. *See, e.g.*, AJS at 9, with references to 118a.

2. Throughout their jurisdictional statement appellants fail to distinguish between the jury pool, from which the panel was drawn, the complete jury panel which included the six alternates (and included five women, see 103a), and the twelve jurors who ultimately decided this case.

were inapplicable to special jurors and they state that no reason was given for this decision by the Delaware Superior Court. The statute itself makes it crystal clear that those provisions, which are under a specific heading relating to grand and petit jurors, are inapplicable to the special jury, which is under a separate heading and which clearly proceeds on a different theory.[3]

2. The Delaware Supreme Court Opinions in the Case at Bar.

We have discussed in a separate section the issue of whether or not this Court should consider the "potential" of a special jury statute for discrimination in connection with its review of a case where there was no finding of such discrimination, nor any evidence to support discrimination. The Delaware Supreme Court found that appellants in this case had been treated fairly, but found the court rules could be improved to make sure that future litigants were also treated fairly.

It is significant that while there were two opinions of the Delaware Supreme Court in this case, neither of them sought to reverse the case on any issue pertinent to this appeal. The first opinion proposed reversal on the grounds of an allegedly defective instruction to the jury,

3. It is not correct (as alleged at AJS 11) that the lower court gave no reason for holding 10 *Del. C.* §§ 4501 *et seq.* (1982 Cum. Supp.) inapplicable to special jurors. It noted the obvious fact that grand juries and petit juries on the one hand and special juries on the other are covered in entirely separate subchapters of the statute, namely I and II of Chapter 45 of Title 10 of the Delaware Code. 102a. The Delaware Supreme Court stated that:

> The legislative revision left untouched the provisions of the Special Jury Statute, and we are satisfied that the Legislature intended to preserve the special jury practice when it did not repeal statutory authority for it at the time.

76a.

and it was that particular aspect of the case that, on reconsideration in its second opinion, the Supreme Court of Delaware rejected.[4]

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4. Appellants at AJS 8 n. 2 make some kind of a point of the fact that the Delaware Supreme Court opinion states that appellee cross-appealed from a denial of its motion for a directed verdict, and this was erroneous. Apparently the court was using "cross-appeal" in the sense that appellee did and still does contend that it was error to deny its motion for a directed verdict, and therefore appellants' objections to the instructions and to the special jury were moot. Of course, it is unnecessary for a defendant, as the prevailing party and the appellee, to cross-appeal. Even without any such cross-appeal, appellee may urge any argument in support of the judgment of the court below. *Dandridge v. Williams*, 397 U. S. 471, 475 n. 6, *rehearing denied*, 398 U. S. 914 (1970); *Langnes v. Green*, 282 U. S. 531, 538 (1931); *Story Parchment Co. v. Paterson Parchment Paper Co.*, 282 U. S. 555, 567-68 (1931); *United States v. American Railway Express Co.*, 265 U. S. 425, 435-36 (1924); *Annot.*, 1 L. Ed. 2d 1820 at § 4(a) (1957); 5 C. J. S. *Appeal and Error* § 1498a(3) (1958); 5 Am. Jur. 2d *Appeal and Error* § 707 (1962). Delaware appears to hold that a reason for sustaining a judgment, if based on the record sent up, may even be urged for the first time in the appellate court. *Gottlieb v. Heyden Chemical Corp.*, 92 A. 2d 594, 595 (Del. 1952).

In any event, the Delaware Supreme Court did not reach or consider this point. 2a n. 1.

ARGUMENT

This is a case where the evidence clearly justified the jury verdict and, indeed, we submit, would have justified a directed verdict in appellee's favor. Appellants' principal complaint seems to be that in a different type of case it would have been wrong to use a special jury, or the jurors might have been improperly selected. Yet, at the trial in this case appellants in effect conceded that this particular case was a proper case for trial by a special jury.[5]

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5. In open court at the trial appellants' counsel announced to the jury:

> His Honor, in his opening remarks to you, said that *you are a special jury*, and that has special connotations. *You are a special jury.* You have been selected out of numerous people *because of your special attributes*, and *this is a special case*, and *that's why a special jury was selected.*

32b (emphasis added).

Further, in his closing remarks, counsel for the appellants reemphasized this point:

> This is a very important case. When I started out on December 1st and had the opportunity to address you, I told you that *it was a special case* and that *you were a special jury*, and you know that many were called but only a few were chosen to serve on this jury. I think that is said somewhere in the Bible, "Many were called, but few were chosen." You were chosen as a special jury.
>
> . . . .
>
> We don't know you. I don't know you. You don't know me, except what you've seen in this courtroom. That's a very large burden that you carry, and we know it. But we are here and we are going to put our chest out, and we are going to let you decide this case and let you deal with the issues in this case, let you determine what the truth is and what the right is in this case, as you have sworn to do. I know you will do it, and you will do it well. *You are a good Delaware jury.*

33b (emphasis added).

Further, the evidence did not establish any improper discrimination in the selection of the jury pool in this case, and both lower courts so found. 103a and 75a. There was no finding that the appellants had been "victimized" by any statutory vices, although the Delaware Supreme Court did approve revision of the statute so as to eliminate the possibility that there might be improprieties in other future cases.

In summary, the questions presented here are not substantial, nor are they clearly presented, because in this particular case there is no record showing that the appellants were adversely affected by any of the "potential" problems in the statute, and no showing that even if this statute were amended to require that it be utilized only in the large, complex cases that it would not be utilized in this particular type of case which was very complex and of long duration. Finally, in this particular case the point was moot because a directed verdict should have been granted in favor of appellee because of the overwhelming evidence establishing, as the jury found, that there was no fault on the part of appellee and the accident occurred as a result of deficient maintenance procedures and pilot error.

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5. (Cont'd.)

Appellants seek to have it both ways, an overt endorsement of the special jury and of the composition of this specific jury in open court, and later a covert attack on the special jury system and on the composition of this jury in a motion for a new trial before the same court and on appeal.

I. This Case Presents No Substantial Question Not Previously Decided by This Court.

A. This Court Has Repeatedly Held That State Jury Practices Should Not Be Overturned When Not Clearly Violative of Federal Constitutional Principles.

For over 100 years this Court has consistently held that the states have the power to establish juror qualifications, as it is within the states' authority to regulate procedures used in state courts. *Carter v. Greene County,* 396 U. S. 320, 332 (1970); *Snyder v. Massachusetts,* 291 U.S. 97, 105 (1934); *Jugiro v. Brush,* 140 U. S. 291, 297-98 (1891); *Clinton v. Englebrecht,* 80 U. S. (13 Wall.) 434, 448 (1872).

While the seventh amendment "preserves" the right to trial by jury in suits at common law, this Court has not applied that amendment to the state courts, since it is not incorporated into the fourteenth amendment. *Melancon v. McKeithen,* 345 F. Supp. 1025 (E. D. La. 1972), *aff'd sub nom., Hill v. McKeithen,* 409 U. S. 943 (1972) *and aff'd sub nom., Davis v. Edwards,* 409 U. S. 1098 (1973). Thus it has been stated that the states can "modify the civil jury so long as the requirements of due process are observed." Note, *The Case for Special Juries in Complex Civil Litigation,* 89 Yale L. J. 1155, 1157 (1980). Consequently, the states can pass statutes authorizing special juries consisting of persons who may be better qualified to try cases of some complexity. *Cf. Strauder v. West Virginia,* 100 U. S. 303, 310 (1880).

We submit that in view of the well-reasoned decisions in this area holding that state jury selection and impaneling procedures should be left to the states, thus permitting the very desirable experimentation with new

ideas and approaches, this case does not present a substantial question. *Fay v. New York*, 332 U. S. 261, 294-96, *rehearing denied*, 332 U. S. 784 (1947).

Further, in the past when this Court has dealt with the problem of an absence in the statute of specific criteria on which jury selection is based, it has consistently held that such an absence is not a constitutional defect. *Fay v. New York*, 332 U. S. 261, 272, *rehearing denied*, 332 U. S. 784 (1947) ("It has consistently been held that a jury is not rendered constitutionally invalid by the failure of the statute to set forth any standards for selection.") *Akins v. Texas*, 325 U. S. 398, 402-03, *rehearing denied*, 326 U. S. 806 (1945); *Franklin v. South Carolina*, 218 U. S. 161, 167-68 (1910); *Murray v. Louisiana*, 163 U. S. 101, 106, 108 (1896). In any event, this jury pool did provide a fair cross-section of the community, although it was a cross-section of more qualified jurors for this special case. And, in fact, the Supreme Court has never held invalid a state court civil jury trial based on the failure to comply with any sort of "cross-section of the community" standard. Luneberg & Nordenberg, *Specially Qualified Juries and Expert Nonjury Tribunals: Alternatives for Coping with the Complexities of Modern Civil Litigation*, 67 Va. L. Rev. 887, 922 (1981).

We have dealt below with the question of whether or not, in a case of this size, duration, and complexity, the appellants can properly complain that the statute should not be available in some other simple, small, short trial.

B. Special Juries Have Already Been Approved by Decisions of This Court.

As the lower court noted, special or blue ribbon jury statutes and practices thereunder have been upheld by this Court even in criminal cases. *Fay v. New York*, 332

U. S. 261, 285, *rehearing denied*, 332 U. S. 784 (1947).[6] This is true notwithstanding the fact that the sixth amendment, relating to criminal prosecutions, has been held to be incorporated in the due process clause of the fourteenth amendment, while the seventh amendment, relating to civil cases (and of course we are involved here with a civil case) has never been held to be so incorporated. *See Peters v. Kiff*, 407 U. S. 493 (1972); *Melancon v. McKeithen*, 345 F. Supp. 1025 (E. D. La. 1972), *aff'd sub nom., Hill v. McKeithen*, 409 U. S. 943 (1972), *and aff'd sub nom., Davis v. Edwards*, 409 U. S. 1098 (1973). Reasons for jury trial in a civil context and a criminal context may be different. *See Colgrove v. Battin*, 413 U. S. 149 (1973).

II. The Issues Appellants Raise Are Not Now Substantial Because They Are Not Presented by This Case.

Appellants' principal complaints in this case seem to relate to situations which might arise in other cases, but which did not arise in this case.

Appellants rely heavily on the fact that the Delaware Supreme Court directed the Superior Court to draft improvements to the special jury statute before using it again because "potentially" it could be used in an improper way. AJS at 19-21. However, there was no finding that it was used improperly in this case, or that there had been any improper exclusion or inclusion of particular categories of jurors. We submit, therefore, that this Court should not consider this case which does not raise the questions about which appellants complain.

Similarly, appellants object at AJS 17 and elsewhere (*see, e.g.*, AJS at 11) to the fact that the Delaware special

6. *See also Moore v. New York*, 333 U. S. 565 (1948); *Brown v. New Jersey*, 175 U. S. 172 (1899). These are similarly *a fortiori* cases involving criminal prosecutions.

jury statute might be available in a simple automobile accident case and that it would be unfair to have a special jury statute which is available when it is not needed.[7] However, that is not a question raised in this case where the jury was confronted with a highly sophisticated battle of experts in the field of aircraft design, warning systems, metallurgy, statistics, etc. Further, this trial was of extremely long duration, commencing on December 1, 1980 and not ending until January 19, 1981, requiring jurors with powerful memories and highly developed retentive abilities. A critical witness for appellants, Tannian, characterized this as an "exceptional case". 34b. About two hundred exhibits were introduced, many of them long and technical. Surely this case would have met any reasonable criterion which could be set up for the use of special juries as appellants conceded in the lower court (see footnote 5, *supra*), and so it does not present the questions which appellants would have this Court review. Indeed, extension of the special jury system to deal with the complexities of modern trials such as this has been urged by scholars writing in this field. *See* Luneburg & Nordenberg, 67 Va. L. Rev. 887, *supra;* Note, 89 Yale L. J., *supra* at 1162 n. 40. Further, special juries may resolve the controversial problem of what to do about cases deemed too complex and/or of too long duration to be presented to a regular jury. *Compare In Re U. S. Financial Securities Litigation*, 609 F. 2d 411 (9th Cir. 1979), *cert. denied sub nom., Gant v. Union Bank*, 446 U. S. 929 (1980), *with In re Japanese Electronic Products Antitrust Litigation*, 631 F. 2d 1069 (3d Cir. 1980).

7. The statute does, in fact, have a very substantial penalty incorporated in it if it is used when inappropriate. Under such circumstances the entire cost of the special jury falls on the person who demanded it even if he is the prevailing party. *See* 10 *Del. C.* § 4543 (1975); AJS at 4.

Appellants suggest at AJS 15 n. 8 that the Delaware Supreme Court approved exclusion of otherwise qualified jurors based "solely on age, occupation, intelligence, and education (minimum of a college degree)." Insofar as age and education are concerned, these are permissible and valid criteria, and are endorsed, in fact, by the authorities who have considered this question. *See* Note, 89 *Yale L. J., supra* at 1174-75. In this case there is no showing that anyone was excluded because of occupation or intelligence. The new Delaware special jury rules, to our knowledge, are not yet available, and, in any event, were not applicable to this case.

III. No Substantial Question Is Presented in This Case Because the Record Below as to the Jury Selection in the Case at Bar Is Inadequate and Insufficient to Support This Appeal and in No Event Does the Record Demonstrate a Denial of Due Process in This Case.

Before trial appellants made virtually no record of any statistical or other data showing any constitutional or statutory defect in the Delaware special jury pool or panel *in this case*. Indeed, appellants registered no complaints about the *way* the procedure worked, though they opposed use of the special jury. Instead, at trial, they openly praised the special jury as a legal body as well as the individual members serving thereon in the instant case. Before trial, appellants were aware of the pool of special jurors, including their ages, education, and occupational backgrounds. This information on each juror in the pool was available in the Prothonotary's office. Appellants failed to make a record as to the jury pool for this case. At the trial, as noted above in footnote 5, appellants openly commended the jury as a special jury, and stated this was a "special case." After the trial—when appel-

lants had lost and were seeking an avenue for appeal—appellants tried to reconstruct the jury pool or panel from which the jurors were selected.

Before trial the parties were permitted to strike some jurors from the pool, in accordance with the Delaware law. Appellants made no record at the time of the strikes of whom was struck or that appellants objected to the procedures for selection or striking jurors.[8] Thus, there is no record for some of the statements by appellants at AJS 9-10. By the time trial began, therefore, the jury pool had been reduced through statutory procedures for strikes so that the pool from which the jury was then drawn was significantly altered from the initial pool before the parties exercised their strikes prior to trial. But there is no sound record even of that pool for this case prior to the statutorily exercised strikes by both parties, to which appellants then made no objection and of which appellants made no record.[9]

On the first day of the trial, the twelve jurors and six alternates were drawn, but the composition of the jury was not constitutionally defective. As the jury was drawn on the first day of trial, each party had statutory rights to object to a certain number of jurors. The result of these numerous steps produced the jury of which appellants complain (AJS at 10 n. 5). But the Court does not have a record of the steps: there is no record

8. The statement at the top of AJS 10 concerning appellee's use of the strikes is not supported by the record and no record reference is given.

9. Appellants note at AJS 9 n. 4 that although the special jury statute, 10 *Del. C.* § 4541 (1975), directs the "Prothonotary, or his deputy" to prepare the list of special jurors, the exclusion decisions were made by the jury commissioners who are nowhere mentioned in the statute. There is no showing of prejudice if such a development occurred. Further, this point was never presented to the Delaware courts and preserved.

of the jurors' profiles comprising the initial jury pool and there is no record of who was struck on the days preceding trial when each party exercised statutory rights to strike a number of jurors from the pool from which the Prothonotary would call jurors to appear on the first day of trial.

It is the composition of the initial pool of special jurors *for this case* prior to trial that is the crucial element of appellants' appeal—and there is no record on this point. The after-the-fact—or after-the-trial—attempts of appellants to guess at a possible jury pool through hearsay and sketchy statements of a court clerk do not establish the jury pool in this case. Appellants' counsel's own hearsay data does not establish facts in this case as to the jury. 114a. Even appellants' own data does not establish any constitutional defect. Indeed, that data indicates that the Delaware special jury procedures are infrequently used. See 123a indicating only four special jury trials in 1979 and 124a indicating only two in 1980. Presumably, the Delaware procedure has been used largely in complex or long civil cases, such as the one at bar. Of course, there is no reliable record on that point, either.

Further, while appellants purport to give statistics on the number of women in the general population, they offer no statistics on the number of women who are registered voters and available as qualified jurors, so there is a totally inadequate record on this question. This deficiency was noted by the lower court in its opinion denying the motion for a new trial. 103a. Absent adequate proof, there is a presumption that state officials are performing their tasks in accordance with the precepts of the law. *Hoyt v. Florida*, 368 U. S. 57, 68-69 (1961).

As to age, there is not even an adequate record for appellants to argue that people under thirty years of age were not represented in the pool of special jurors. There

is no record as to the ages of the special jurors on the list that comprised the pool. 35b-38b. Appellants filed the questionnaires of the twelve special jurors who actually tried this case, but the relevant statistics, as we have noted, must be for the entire pool of special jurors, not just the twelve who by chance were drawn for the trial. Questionnaires from the pool do show jurors under thirty at the time of the trial (Sandra Colarecchi (age 25), Susan Kreuer (age 25), R. A. Marin (age 27), Robert R. Miller (age 25) and Michael Vayo (age 28)). 39b-53b.

Furthermore, appellants did not raise the age question at all in the Superior Court, and this explains in part their inadequate record.

Finally, the record is totally devoid of any suggestion of the systematic exclusion of any group which should not be excluded (*see Apodaca v. Oregon*, 406 U. S. 404, 413 (1972); *Thiel v. Southern Pacific Company*, 328 U. S. 217, 220 (1946)) or purposeful exclusion of any such group. *City of Mobile v. Bolden*, 446 U. S. 55, 77 n. 24 (1980); *Akins v. Texas*, 325 U. S. 398, 403, *rehearing denied*, 326 U. S. 806 (1945); *Taylor v. Louisiana*, 419 U. S. 522, 538 (1975); *Cassell v. Texas*, 339 U. S. 282, 289-90 (1950); *Neal v. Delaware*, 103 U. S. 370, 394 (1881). Without such a record, as the Delaware Supreme Court noted at 75a, appellants "have not established that the special jury statute, as applied in this case, was in violation of their constitutional rights."

Appellee knows of no jury case where this Court has addressed a challenge to the composition of a jury with such an inadequate record as in this case. *Compare Castaneda v. Partida*, 430 U. S. 482, 486-92 (1977); *Carter v. Greene County*, 396 U. S. 320, 324 (1970); and *Fay v. New York*, 332 U. S. 261, 273-76, *rehearing denied*, 332 U. S. 784 (1947), *with* the record in this case.

Based on the record in this case, what rationale could support a decision for appellants? Would the Court disrupt our entire federal-state judicial balance by holding that no state may pass a statute permitting better qualified citizens to serve as jurors? If the appellants argue that the composition of the initial pool of jurors was unconstitutional, the appellants have no record of the initial pool in this case. The subsequent steps under the Delaware statute to permit the parties to reduce this pool by strikes prior to trial cannot be attacked in this case, as there is no record of jurors struck prior to trial. Furthermore, this Court has upheld the right of parties arbitrarily to exercise their statutory rights to strike or exclude jurors. *Swain v. Alabama,* 380 U. S. 202, 227, *rehearing denied,* 381 U. S. 921 (1965). If appellants challenge the criteria for selection of the jury pool, the appellants have no adequate record of the actual criteria used for the selection of this jury pool.

To the extent that the Delaware Supreme Court has directed the Delaware Superior Court to prepare more specific criteria for the future selection of special jurors, that alone establishes no constitutional defect in this special jury. Indeed, it may only suggest the strength of the federal-state judicial system and the wisdom of leaving some discretion in the states to develop their own jury systems for civil trials.

IV. Any Issue With Respect to the Delaware Rules Relating to Special Juries Has Become or Will Become Moot.

Insofar as there is concern about the contention that the current Delaware rules relating to the impaneling of a special jury may contain a potential future problem in other cases, it is most significant that the Delaware Supreme Court, in its opinion in this case, has directed that

those rules be improved. Therefore, in effect, appellants are asking this Court to examine rules which will be repealed and superseded and become moot long before this Court can decide this case.

In light of the fact that the rules did not cause a problem in this case, but were merely described as having a potential for problems in future cases, it would be a waste of this Court's time and energy to focus on a potential rule deficiency, which rules will be amended before they are next used in Delaware.

V. This Appeal Was Not Taken in Conformity With the United States Supreme Court Rules.

United States Supreme Court Rule 28.4.(c) provides that

> In any proceeding in this Court wherein the constitutionality of any statute of a State is drawn in question, and the State or any agency, officer, or employee thereof is not a party, the initial pleading, motion or paper in this Court shall recite that 28 U. S. C. § 2403(b) may be applicable and shall be served upon the Attorney General of the State . . . .

Appellants challenge the constitutionality of the special jury statute of the State of Delaware in their appeal, yet their original pleading—their jurisdictional statement—nowhere recites that 28 U. S. C. § 2403(b) may be applicable, as required by United States Supreme Court Rule 28.4.(c). Likewise, apparently the appellants' jurisdictional statement was not served on the Attorney General of the State of Delaware, as required by United States Supreme Court Rule 28.4.(c).

Appellants having failed to comply with the requirements of this Court's Rules, their appeal should be dismissed.

CONCLUSION

This Court has already (in *Fay v. New York*, 332 U. S. 261, *rehearing denied*, 332 U. S. 784 (1947)) said far better than we can say (although in the context of a criminal sixth amendment case) what the conclusion should be in a case of this kind:

> This Court has long dealt and must continue to deal with these controversies from state courts with self-imposed restraints intended to protect itself and the state against irresponsible exercise of its unappealable power.

332 U. S. at 282.

> The function of this federal court under the Fourteenth Amendment in reference to state juries is not to prescribe procedures but is essentially to protect the integrity of the trial process by whatever method the state sees fit to employ. No device, whether conventional or newly devised, can be set up by which the judicial process is reduced to a sham and the courts are organized to convict. They must be organized to hear, try and determine on the evidence and the law. But beyond requiring conformity to standards of fundamental fairness that have won legal recognition, this Court has always been careful not to so interpret this Amendment as to impose uniform procedures upon the several states whose legal systems stem from diverse sources of law and reflect different historical influences.

Id. at 294.

> Evolution of the jury continues even now, and many experiments are under way that were strange to the common law. Some states have taken measures to restrict its use, others, where jury service is a hard-

> ship, diminish the required number of jurors . . . Denial of the right to experiment may be fraught with serious consequences to the Nation. It is one of the happy incidents of the federal system that a single courageous State may, if its citizens choose, serve as a laboratory; and try novel social and economical experiments without risk to the rest of the country.

Id. at 296.

For these reasons appellee respectfully submits that the questions upon which this appeal depends are so unsubstantial as not to need further argument, that the appeal does not present a substantial federal question, that appellants did not properly raise the issues on which the appeal is based in the courts below, that the judgment rests on an adequate non-federal basis and that the appeal was not taken in conformity with the United States Supreme Court Rules. Therefore, appellee respectfully moves the Court to dismiss this appeal, or, in the alternative, to affirm the judgment entered in the cause by the Supreme Court of Delaware.

Respectfully submitted,

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Dated: January 20, 1983

ORGANIZATIONAL REGISTER
OPNAV 4790/1 (REV. 1-73)
S/N 0107-770-3022

BUNO	TYPE EQP.	AWM	IN WORK		AWP	
			STARTED	STOPPED	ORDERED	RECEIVED
157958	AHXC					
REPORTED DATE	REPORTED TIME					
5007	1700	Y				
	1715		X			
	1945			X		
5007	1930	COMPLETED				

DISCREPANCY: RED BLADE BIM BLACK AGAIN, AGAIN & AGAIN!

ORIGINATOR

CORRECTIVE ACTION: Replaced Shader Valve.

M/C INITIAL: RK

REGN. NUMBER	SUP PRIORITY
TYPE MAINT. D	W.U.C. 15311
SIDE NO. 16	WORK PRI 1 2 3

DISC C

LOCAL USE: Marquis

43

J.C.N.				QA REC'D YES	QA REC'D NO	C/F RCO'D YES	C/F RCO'D NO
5007	476	121	BIM IND.		X		X

PLAINTIFFS' EVIDENCE (Continued)

(The deposition of T. A. Marquis was read as follows:)

"T. A. Marquis, being previously duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. CASTLE:

. . . .

MR. CASTLE: Your Honor, at this time I'd like to offer into evidence the MAF forms on this particular helicopter for the period running from December 15, 1974 to January 8, 1975.

BY MR. CASTLE:

Q. "That is what you term or call a completed MAF?"

A. "Yes."

Q. "And in its blank form before it is filled out, I guess, it's a MAF form?"

A. "Yes."

Q. "Where are those forms kept?"

A. "In the shop."

Q. "And that's the shop where you did your work?"

A. "Yes, sir."

Q. "Does your signature appear on that completed MAF form?"

A. "Yes."

Q. "And is that in the box which is marked corrected by?"

A. "Yes."

Q. "Could you tell us what the date of that form is?"

A. "January 7, 1975."

Q. "And how do you determine that that's its date from looking at that document?"

A. "The date on the top."

Q. "You are referring to the upper left-hand corner?"

A. "It's in the left-hand corner. It's also in the right-hand corner. You just can't read it."

. . . .

Q. "Earlier in your testimony, you told us that you received a copy of the VIDs discrepancy or complaint. Does that appear anywhere on that form?"

A. "Yes. It's under discrepancy. The complaint does."

Q. "Could you read that to us?"

A. " 'Red blade BIM black again, again, again.' "

Q. "I guess it's pretty clear to everybody, but does that refer to the CH-53 which we have referred to in this case as Dogma 16?"

A. "Yes."

(Deposition of Timothy J. McCauley read to the jury at this time . . . .)

. . . .

Q. "Were you a Quality Assurance representative for the CH-53 helicopter?"

A. "Yes, I was."

. . . .

Q. "On the morning of January 8, referring to January 8, 1975, can you tell us what you did and what happened concerning the aircraft?"

A. "When I arrived to work Wednesday the eighth, on my desk was the discrepancy on the red blade for black BIM indication on aircraft 16."

Q. "That is Dogma 16?"

A. "That is Dogma 16."

Q. "Who had written that discrepancy?"

A. "It was written by Captain O'Brien."

Q. "Do you recall what that discrepancy said?"

A. "It was—it was written up by Captain O'Brien, and dated for the seventh, for Tuesday. The discrepancy was, 'red blade black BIM again, again, again.' It made me wonder why he wrote 'again, again, again,' because I remembered Monday, it did have a black BIM indicator, and I was associated with the blade again."

NAVAIR 01-230HMA-2-4.2

2-12. ROTARY WING BLADES.

. . . .

WARNING

If black is visible on the indicator, it may be an indication of blade damage that is a flight hazard. The cause of the black indication must be determined. If the indicator is found defective it must be replaced. If there has been a loss of spar pressure the blade must be replaced.

PAUL K. GOLDBERG resumes

CROSS-EXAMINATION

. . . .

Q. I will show you Plaintiffs' Exhibit 16 and ask you if you can identify that as the maintenance manual? And I think I can represent that the Plaintiffs have introduced this with the representation that that was the maintenance manual in effect at the time of the accident.

A. Yes. Maintenance instruction, that's correct.

Q. Now, was there any warning as to what to do with a black BIM in this maintenance manual that you recall?

A. Yes, there were.

Q. Let me see if I can assist you and turn you to Page 2.2. And what is the warning there?

A. It says, "If black is visible on the indicator, it may be an indication of blade damage that is a flight hazard. The cause of the black indication must be determined. If the indicator is found defective, it must be replaced. If there is a loss of spar pressure, the blade must be replaced."

THOMAS P. DIXON, called as a witness on the part and behalf of the Defendants, having been previously duly sworn, testified as follows:

. . . .

Q. . . . . Are you in general familiar with the MIMs, as they are called, the maintenance manuals and the troubleshooting procedures?

A. I am.

Q. We are now talking about the procedure which was in effect at the time of the crash on January 8th, 1975.

I am going to hand you Plaintiffs' Exhibit 16. I am also going to put up on the stand Plaintiffs' Exhibit 20, the troubleshooting procedure.

I want to ask you about a statement that you made earlier in response to a question about the BIM. That statement was, as I recall it, that whenever there was a loss of pressure in the blade, the blade should be removed.

Now, is that in fact the case? First, I want to direct your attention to a warning which appears in the MIMs. Can you locate that? It's on page 2-2, but I think in reassembling the manual, we may have mixed the pages a little bit.

A. I don't see Section 2 in here at all.

Here it is. It's mixed up.

Q. Okay.

A. Yes, I have it.

Q. . . . . Have you found it there?

A. I have.

Q. . . . . Have you located the warning in the MIMs?

A. I have.

Q. Let me see if we can read this together. "Warning: If black is visible on the indicator, it may be an indication of damage that is a flight hazard. The cause of the black indication must be determined. If the indicator

is found defective, it must be replaced. If there has been a loss of spar pressure, the blade must be replaced." Now, is that what you were referring to?

A. Yes.

Q. Or does that appear elsewhere, also?

A. That's the warning I'm referring to. Subsequent areas of the handbook agree with that.

(Major Steward's deposition read . . . .)

. . . .

Q. "Did you reach a conclusion in your own mind that they had not properly followed the procedures to service the three successive black BIMS?"

A. "Well, you see, I felt that we had just missed it, you know. . . ."

ROBERT JESSE CUNITZ, being called as a witness on the part and behalf of the plaintiffs, being duly sworn, was examined and testified as follows:

. . . .

First, if it were possible to design a blade that didn't break, we'd be home free. This never would have happened. It turns out, from what I read, that this is not possible.

THOMAS P. DIXON, called as a witness on the part and behalf of the Defendants, having been previously duly sworn, testified as follows:

. . . .

BY MR. CARPENTER:

Q. . . . . What is metal fatigue?

Q. [sic] There isn't any material, just about, that is a solid, that you can't take, keep applying repeated loads to that, at some time it won't finally crack or fail.

18. Investigation findings

I.

A. Previous aircraft history indicates that the aircraft departed New River on a cross country 3 Jan 1975 to Islip MacArthur NY.

B. Returning from the cross country on 4 Jan 1975, the aircraft landed at McGuire AFB for refueling at which time the crew chief noticed a black bim on the red blade during a turnaround postflight inspection. In an effort to determine the cause of the black bim, the crew chief, suspecting a faulty bim, lossened the blade servicing valve (Schrader valve) to determine if any pressure existed within the blade spar. Upon loosening the Schrader valve, the crew chief heard a "hissing" noise which indicated to him the presence of pressure within the blade spar. Therefore the crew chief reasoned that the bim indicator was bad and not the blade. Believing the blade to be serviceable, the crew chief did not inform the pilots.

C. The aircraft continued to Navy Oceana for a refueling stop, hot refueled, departed Oceana for New River, experienced severe weather, returned to Navy Oceana landing at approximately 1925 local. Although a turnaround portflight inspection was not performed by the crew chief, the copilot did in fact see six white bims at that time with a white lens flashlight.

D. After a weather brief the pilot departed Navy Oceana for New River. After once again experiencing severe weather conditions and poor communications with FSS, the pilot landed at Pitt-Greenville to recheck the weather and inform the squadron and FSS of his position and intentions. No turn around postflight was performed at Pitt-Greenville by any crewmember. 156958 departed

Pitt-Greenville at 2250 for New River. He was unable to circumnavigate the existing weather and diverted to Seymour-Johnson AFB. Upon landing at Seymour-Johnson he was contacted by the squadron and was instructed to ron at Seymour-Johnson. There was no postflight at Seymour-Johnson by either pilots or crew.

E. The following morning, 5 Jan 1975, the pilots did not perform their standard NATOPS preflight. However, the crew chief stated that he performed his daily/preflight as directed by the aircraft commander and did not inform the pilots of the existing black bim because of a previous conversation with the copilot where he learned that the rotor head appeared satisfactory to the copilot at Oceana. This conversation reinforced his belief that the bim and not the blade was faulty.

F. Upon arriving at New River on 5 Jan 1975, the pilots were informed of the black bim on the red blade by the crew chief. It was at this time that the crew chief informed the pilots that he had seen a black bim on the red blade at McGuire AFB on 4 Jan 1975. Pilot confirmed the black bim on postflight inspection. Pilots' VIDs write up stated, "Bim, red blade, showing black." He did not state, "Black bim since McGuire" on VIDs.

G. At approximately 0615 on 6 Jan 1975 a hydraulicsman was informed of the pending gripe on the red blade of 156958. Upon checking the blade with the filling and checking unit (T-10) and finding the Schrader valve slightly loose, safety wire broken, and the pressure in the spar to be zero, the hydraulicsman queried the crew chief and found that the crew chief had lossened the Schrader valve and broken the safety wire at sometime prior to servicing. He did not know it was lossened at McGuire AFB. Therefore, he (the hydraulicsman) assumed that

the zero pressure was due to the lossened Schrader valve and not due to a faulty blade or bim. He then reserviced the blade, re-torqued and safety wired the Schrader valve. He did not perform a soap check because the Schrader valve already was loose. He signed off the MAF by saying, "Serviced blade with nitrogen—checked good." He did not state, "Found Schrader valve loose and safety wire broken."

H. On the afternoon of 6 Jan 1975, 156958 was flown by a different aircraft commander for 2.3 hours. During postflight by pilots and crew it was found to have a black bim on the red blade.

I. A second hydraulicsman checked the blade and found spar pressure to be zero. The hydraulicsman informed his work center supervisor of a suspected bim problem and the blade was reserviced and allowed to stand static overnight and did not perform the soap check because he felt the static overnight check would give same indication as soap check.

J. Upon inspection on the night of 6 Jan 1975 and reinspection on the morning of 7 Jan 1975, verifying a white bim indication, the aircraft was signed off and certified "Up" for flight. The same HAC who flew 156958 on 6 Jan 1975 again flew the aircraft on 7 Jan 1975, for 4.8 hours.

K. During a postflight inspection on 7 Jan 1975 a black bim was again found on the red blade and the aircraft was again placed into a "down" status.

L. A third hydraulicsman checked pressure of the spar, found zero pressure, changed the Schrader valve as a corrective action as directed by his acting work center supervisor. The blade was allowed to stand static overnight, inspected for white bim indication, signed off, and

certified for flight. At this time, Tuesday night, trend analysis, QA, failed to detect three recurring bim discrepancies.

M. On the morning of 8 Jan 1975 156958 was daily/preflighted by the chief. While signing off the aircraft, the crew chief learned that it was to be flown by a NATOPS evaluator and a crew chief under instruction and turned the aircraft over to the new crewmembers.

N. It was not until this time, Wednesday morning, that the QA detected three bim discrepancies. While the NATOPS evaluator and crew chief under instruction were coming in to sign off the aircraft after their daily/preflight, they were approached by QA and informed that according to squadron policy, they were required to turn up the aircraft and shut it down to check the red blade bim before flight because of the reoccuring bim discrepancy.

O. After an 0800 AOM (All Officers Meeting) Lieutenants Ruff and Pullen went to preflight 156958. However, it can not be documented that the aircraft was shut down for a bim check prior to flight.

P. 156958 departed New River at 0938, landed at Cherry Point at 0958 for a parts drop. Departed Cherry Point at 1004 and flew direct to Navy Oceana, landing at 1104 for hot refueling. 156958 departed Navy Oceana at 1117 and proceeded direct to McGuire AFB. Att approximately 1204 while cruising at approximately 1500 feet and an airspeed of something less than 130 knots, the red blade failed due to a fatigue crack found on the bottom inboard side of the main rotor blade spar in the vicinity of pocket 14, 13 ft 11 inches from the outboard end of the blade. The classic fatigue striations found at the crack were confirmed by AMB, Naval Safety Center Reps., a NARF North Island metallurist, aand a Sikorsky

blade rep on the scene at the crash site. This fatigue crack is pending engineering investigation. The aircraft immediately experienced catastrophic loss of control and subsequent partial inflight disintergration. 156958 impacted 11 miles east of Salisbury, Md. Weather at the time of the mishap was: 12,000 overcast, wind 150 degrees at 04 knts, and visibility 5 miles. The outboard 13 feet 11 inches of the red blade was found approximately ¾ mile from the wreckage at the 0430 position from the route of flight in a heavy wooded section of a farm. The inflight blade separation and subsequent partial inflight disintergration and impact was seen by numerous witnesses in the vicinity of the crash site. Total elapsed flight time from initial black bim at McGuire AFB to separation was 15.7 hours.

Q. The AMB was assisted by two assigned members of Naval Safety Center who conducted a concurrent mishap investigation at the crash site and at the parent unit, utilizing free exchange of information as directed by US Naval Safety Center.

II. Analysis

A. Ref (181B) crew chief loosening Schrader valve at McGuire AFB to determine if there was pressure within the blade spar was improper maintenance procedure by maintenance SOP. Crew chief failed to inform pilots of existing downing discrepancy.

Б. Ref (181C) the crew chief did not perform a turn around inspection at Navy Oceana. It is the opinion of the AMB that the copilot missed seeing the black bim on the red blade during his rotor head inspection.

C. Ref (181D) no turn around/postflight by any crewmember at Pitt-Greenville. No postflight inspection upon RON at Seymour-Johnson AFB.

D. Ref (181E) pilots violated NATOPS by not performing required preflight. This is the first time pilots should have detected the black bim after departing Islip MacArthur.

E. Ref (181F) pilots did not write up black bim as being black since XcGuire AFB.

F. Ref (181G) due to the requirement for aircraft on the flight schedule of 6 Jan 1975, maintenance control tasked a hydraulicsman to check the blade on 156958 and see if it could hold pressure. The logical course of action for the hydraulicsman after taking to the crew chief was to assume that the loosened Schrader valve was the cause of zero spar pressure. He reserviced the blade, and torqued and safety wired the Schrader valve, all maintenance action was completed and MAF signed off prior to commencement of normal working hours. The hydraulicsman did not state in his MAF write off that he had found a loose Schrader valve and broken safety wire, only that he had reserviced the blade.

G. Ref (181H) with the aircraft in an "Up" status, a daily inspection was performed by the crew chief and when interviewed by the AMB the Monday HAC stated that he himself performed the 10/30 second check on the red blade bim, checked all other bims for proper indication, and found all to be within limits. After flying 2.3 hours a black bim was found on the red blade and 156958 was placed in a "Down" status.

H. Ref (181-I) due to a lack of communication between early crew and day crew, the second hydraulicsman was unaware of the complete procedures followed by the first hydraulicsman. The second hydraulicsman, after taking to his work center supervisor, reasoned that a logical course of action to check for bim or Schrader valve

leakage was to reservice the blade and allow it to stand static overnight and check in the morning for bim or Schrader valve leakage. It is to be noted that no soap test as required by MIMS was performed and zherefore is in violation of standard maintenance procedures. The hydraulicsman felt that the existing below freezing temperatures would preclude the use of the soap test.

I. Ref (181L) the rationale used by hydraulics to change the Schrader valve on the evening of 7 Jan 1975 is undetermined. The procedures and rationale used by the maintenance department after the blade had indicated no loss of pressure from either Schrader valve or bim due to a previous static leakage check for 18 hours (Monday night, 6 Jan 75, through Tuesday morning, 7 Jan 75) should have indicated to the maintenance department that the spar pressure loss was due to either blade spar or blade dam defect and not Schrader valve or bim leakage. Maintenance department failed to properly supervise this third bim discrepancy. Granted, there was a communication gap between day and night crew personnel. However, the maintenance department did infact know that this was the third bim discrepancy, they did infact known that it had been previously static checked overnight to check for pressure loss and should have deduced that replacing the Schrader valve and performing another static overnight blade check for pressure loss would have been redundant maintenance action. Because of a shortage of qualified supervisory personnel available during this time frame, the write up of the third downing bim discrepancy was not noted by QA until the following Wednesday morning. QA at this time instructed both crew members to require that the pilots perform a ground turn-up and shutdown so that QA could personally inspect the red blade bim indicator after shutdown. It is the

opinion of this AMB that due to conflicting testimony by numerous squadron personnel and the time frame involved, that the aircraft was not turned up and shutdown prior to departure on 8 Jan 1975.

J. Ref (181P) it is the opinion of the AMS that the fatigue crack could not have been discovered in a static position as it was on the bottom side of the blade. The normal downward flex of the blade would seal the crack. Therefore the blade would have to be flying for the crack to show spar leakage/deterioration.

III. Conclusions

A. Cause Factor

1. The aircraft accident was due to a fatigue crack of the red blade causing inflight blade separation and subsequent catastrophic loss of control and partial disintergration.

B. Contributing Cause Factors

1. Crew performance

(A). The desire/haste of all cross country crew members to return to NCA led to:

(1) Improper maintenance procedures performed by the crew chief at McGuire AFB i.e. loosening of the Schrader valve and not reporting the black bim to the cross country pilot.

(2) No postflight inspection at Pitt-Greenville. No postflight inspection at Seymour-Johnson AFB the evening of 4 Jan 75.

(3) The daily inspection by the crew chief the morning of 5 Jan 75 that found a black bim discrepancy and again not reporting this to the pilot.

(4) No standard NATOPS preflight by cross country pilots at Seymour-Johnson the morning of 5 January.

(5) The inadequate VIDs write up by the cross country pilot on the bad bim indication.

2. Maintenance procedures

(A). Improper spar pressure integrity check by the crew chief at McGuire AFB.

(B). Failure of maintenance personnel Monday night to perform a soap check in accordance with MIMS and properly write up MAF.

(C). Improper trouble shooting procedures the night of 7 Jan 75 i.e. removal and replacement of the Schrader valve without properly researching all previous downing discrepancies.

3. Supervisory maintenance procedures (see paragraph 2 above)

4. Shortages of adequate numbers of experienced/trained supervisory personnel.

(A). No staff NCO 6055 in hydraulic work center.

(B). No 6119 available for maintenance control supervisory duties.

(C). No adequate cross section representation of required MOS's in QA.

(D) Controlling custodian assigns this squadron twenty-one CH-53's. However, CMC assigns this squadron T/O based on eighteen CH-53's. This further reduces a squadron's operational capability/efficiency.

5. Tempo of operations

(A). Wednesday 8 Jan 75 was originally scheduled to be an aviation standdown.

(B). The squadron's "Can-Do" attitude to provide OP-Ready aircraft to meet scheduled requirements influenced the logical human chain of proper maintenance trouble shooting procedures.

6. Human failure to be over confident in a mechanical system (i.e. the blade) leading to a false sense of security.

C. On Tuesday afternoon 7 Jan 75 the maintenance department was under the impression that because of previously published directives, Wednesday would be a maintenance/avaiation standdown and training day. The maintenance department was geared for a Wednesday work day consisting of aircraft maintenance and training. Therefore, the maintenance department was not expecting to have to meet a flight schedule until publication of the next day's flight schedule by Operations the afternoon of 7 Jan 75. On the evening of 7 Jan 75, four aircraft were still flying. Maintenance then became concerned as to how they would meet the Wednesday AM flight schedule. During this time frame, the maintenance department was staffed by relatively inexperienced junior supervisory personnel. The senior supervisory personnel were preparing for heavy forthcomming deployments not only to Puerto Rico (4A/C), but for a shipboard deployment (2A/C), a possible detachment to Camp Drum, NY (4A/C), and one aircraft to PAR at California. It is ironic that the very program i.e. Maintenance/Aviation standdown and training day that was instiutued to provide the badly needed time for technical training and working off aircraft gripes was rescheduled on several successive days to fill commitments and thus became a contributing part to this mishap. It is the opi ion of this AMB that if the amount of flight hrs and commitments required are to continue at its present level and squadrons are required to operate with their present level of qualified personnel, the system of checks and balances within

the squadrons will continue to break down and the chances of another aircraft accident caused by a similar set of circumstances will continue to exixt.

19. Recommendations

A. That cocxpit bims be incorporated in all Marine CH-53 aircraft.

B. That strict adherence to all NATOPS procedures be followed by all air crewman

C. That strict adherence to all NAMP procedures be followed by all maintenance personnel.

D. Emphasize that all personnel make timely and complete information of all writ ups i.e. VIDs, MAFs, etc.

E. That strict adherence to one full day per week be devoted solely to preventative maintenance/technical training.

F. That formal school training in specific aircraft model, I.S. Sikorsky mini courses, for Fleet Marine Corps personnel be provided for the hard aviation MOS.

G. That a sufficient number of properly trained and experienced personnel in both rank and MOS be provided to properly maintain and operate the 21 aircraft assigned to this squadron.

H. That in conjunction with recommendation G. above, recommend that all critical aviation peculiar MOS be exempted from assignment ot Category "B" billets until sufficient numbers of aviation personnel are available at the squadron level.

I. That the findings of this AMB be given maximum dissemination to all squadrons in an effort to make them aware that such a sequence of events can happen and therefore help to prevent such a reoccurence.

20. Commanding officer's endoresement: I concur with the conclusions and recommendations of the aircraft mishap board with the following comments:

A. Unfortunately it is difficult to legislate two qualities in our personnel. It is virtually impossible to legislate integrity and extremely difficult to legislate against stupidity. Needless to say both were factors in this aircraft mishap. It is inexcuseable that neither pilot performed his duties, but the crew chief also failed, for whatever reason imaginable, to inform the pilots of the downing discrepancy. All three were afforded more that ample time to step forward and tell the truth, but unfortunately none possessed that integrity.

B. Poor management/supervision resulted in the inept handling of the reoccurring black bim downing gripe by maintenance control supervisors and the hydraulics work center.

(1) Maintenance control in conjunction with quality assurance had ample opportunity, if not time, to analize and correct the problem area. The obvious breakdown in communications/supervision connot in total be rationally explained. Regardless of the assumptions/conclusions drawn at this point it is a strange set of circumstances for a squadron that had exceeded sixteen thousand (16,000) accident free flight hours, to have an accident of this nature.

C. The investigation, analysis, and completion of the AAR by this squadron, resulted in a learning process that proved vast and significant. Numerous probled areas were uncovered during the investigation that warrant corrective action, which are totally unrelated to the mishap and when corrected will constitute a hidden benefit. In addition, this adversity has created an emotional impact on this unit that will require months to overcome.

D. The recommendations of the aircraft mishap board are concured with and are amplified in the following paragraphs:

(1) Input of junior personnel marginally qualified within their fields requires technical training programs. Time allowance toward a dedicated program in this area has been seriously limited due to the necessity of addressing continuing work requirements in resopnse to operational commitments.

(2) Insufficient depth of qualified supervisors has limited total effectiveness. Majority of the officers assigned to maintenance do not have formal maintenance schooling nor a maintenance oriented background. Training maintenance officers is accomplished by CJT depending on the needs of the unit. Constant turn overs in supervisory billets by Marines with varying degrees of proficiency degreades the final maintenance product. Presently, those personnel who are qualified supervisors are required to perform functional tasks in addition to teaching OJT, due to low skill levels in their respective work centers. These activities dilute their primary role as a supervisor and degrade the quality of the maintenance effort.

(3) Quality assurance personnel are normally assigned by senority, based on the assumptions that knowledge and experience has been gained on the job. This system has not provided continuity for adequately supervising maintenance procedures nor a continuous flow of qualified personnel.

(4) Training requirement directed by the Commanding General 2DMAW contained in Admin 2DMAW MSG 271515Z Dec 74 (NOTAL) will help correct difficiencies enumerated in the preceding paragraphs.

(5) In the final analysis where all else failed, cockpit bim would have prevented this accident. The helicopter community does not have an egress system, HEPS is years away from being incorporated, if ever and it is high time we as helicopter aicraft commanders had an adequate system to warn of catastrophic failure, and a fair chance of srvival. Strongley recommend that future generation rotor blades, when purchased, have similar reliability/integrity characteristics commensurate with those found in the fixed wing community.

E. The following action has veen initiated to prevent a reoccurrance of a mishap of this nature:

(1). The maintenance chief has been relieved of all associated duties and relocated to maintenance control for continuous supervision and monitoring of all work centers.

(2) A program for assigning a daily maintenance duty officer has been established so that continuity in screening discrepancies maybe assured.

(3) The corrective action for all downing gripes will be reviewed by QA and the squadron safety officer prior to certification of an aircraft as safe for flight.

(4) For the violations that resulted from a lack of knowledge or insufficient training, the appropriate respose is education. For the violations that resulted from a violation of NATOPS procedures, the appropriate resopnse is discipline and they will be dealt with accordingly.

(5) MAG-26 MSG (141938Z Jan 75 NOTAL) and COMNAVAIRSYCOM 102313Z Jan 75 have eliminated the possibility of a breakdown in NAMP procedures as it pertains to the bim indicator system at the CMA level.

(Letterhead of)

DEPARTMENT OF THE NAVY
NAVAL AIR SYSTEMS COMMAND
NAVAL PLANT REPRESENTATIVE OFFICE
SIKORSKY AIRCRAFT DIVISION
UNITED AIRCRAFT CORPORATION
STRATFORD, CONNECTICUT 06457

IN REPLY REFER TO:
QAV/fdb
13052
15 January 1975

From: Naval Plant Representative, Stratford, Connecticut

To: Sikorsky Aircraft

Subj: Interim Safety Suppl TO 1H-53(H) B-6WC-2SS-1 dtd 14 Jan 75

Encl: (1) Dir Mat Mgt Robins AFB GA msg R 142150Z Jan 75

1. The enclosed directive establishes mandatory requirements for actions by the contractor, including the immediate recording of status entries in the applicable section of aircraft logbooks, component cards, maintenance, inspection and/or flight records documents, for all effected articles and/or equipments.

2. This directive constitutes the authority for contractor implementing actions to accomplish the specific requirements of application, compliance, detail instructions, documentation and records, preparation and submittal of special reports.

3. In accordance with compliance requirements of the subject directive, accomplishment must occur *Each pre-flight* - .

☐ Failure to comply with the above deadline will require the withdrawal of all effected articles or equipments from further utilization or service.

4. If costs to the government will result, this office should be contacted immediately and contractual arrangements will be made in order not to delay the work.

5. Update manuals cited in enclosure (1).

/s/ WILLIAM R. KRONUS
William R. Kronus
Administrative Contracting Officer

cc: Q.C. Directive Control (10)
with encl.—Action
Engineering (5)
Contract Pricing (2)
Product Support (2)
O & R
G.F.E.
Tech. Pub.
Tech. Directives
Programs
Foreign License

This is Interim Safety Supplement to 1H-53(H) B-6WC-2SS-1 dated 14 Jan 75. This ITO supplements to 1H-53(H)B-6WC-2 dated 1 Feb 74. Subject: Work cards, preflight-postflight inspection CH/HH-53B/C Helicopters. A suitable reference will be made on the title page of affected to and on the affected work card at the affected paragraph. Purpose: To include a requirement to check main rotor blade bim indicator for proper operation on each preflight. Card number 1-005 Item number 5 is change to read: 5. Blade pressure indicators for proper operation (599). A. Firmly press lever on side oof indicator. Indicator should show half white and half black in 10 to 30 seconds. B. Release lever. Indicator should return to full white indication. Action addresses are requested to make appropriate dissemination to all affected activities under their administrative jurisdiction. Request all affected activities acknowledge receipt and understanding by return MSG : Dir MAT MGT Robins AFB GA/HMAT. Initiator: M. Griffin, Extension 2878, Home Phone 912-987-2395: Alternate, H. Hughes, Extension 2878, Home Phone 912-922-0766. TCTO 1H-53(H)B-6WC-2SS-1 applies.

1. Ref A was first CH-53 accident caused by fatigue crack of main rotor blade (MPB). Refs B and C restricted CH-53 flight envelope and Ref B stated in part, "The ultimate key to safe operation is the bim system and its inspection law appropriate publications. Importance of continuing emphasis to all personnel of these procedures cannot be overstated.

2. Ref D was second CH-53 accident caused by fatigue failure of MRB. NavSafeCen investigation of mishap indicated that several personnel had an opportunity to arrest the chain of events leading to the crash. Further, individual failures to take requisite action could be attributed to very understandable human errors. Breakdowns in communication, lack of understanding of the system, lack of training, etc., allowed repeated indications of an impending blade failure to slip through the controls established by maintenance procedure. Strict control and adherence to existing procedure should have interrupted the chain. In order to close the gap on human error Refs E and F have changed maint procedures and have assigned responsibility for more stringent inspection procedures to IMA.

3. It is essential that all personnel involved in H-53 operations understand that the bim indicators must be checked in accordance with appropriate NAVAIR and NATOPS instructions. Improper indications must be attributed to cracked blade spars unless positively proven otherwise.

4. Nine of thirteen known spar cracks were located on bottom side of spar. Ref G advised that gas will not always leak through a fatigue crack on bottom of spar when blades are static or when rotor is turning at 100 percent RPM at flat pitch. Static leak tests and maint turnups are not valid or authorized spar integrity checks.

5. Request dissemination to all H-53 operators.

ROBERT JESSE CUNITZ, being called as a witness on the part and behalf of the plaintiffs, being duly sworn, was examined and testified as follows:

. . . .

The cause, without question, of this accident was a failure to detect a real alarm, a crack in the blade, all right, which eventually ruptured. That was the cause of this accident.

. . . .

A. The cause of this particular accident simply was a failure to detect that the blade was cracked.

PAUL K. GOLDBERG resumes

CROSS-EXAMINATION

. . . .

A. . . . . If this blade were removed the first time that it had a black BIM indication, this accident would have not happened.

December 1, 1980

THE COURT: The plaintiff may address the jury.

MR. INDEN: Thank you, Your Honor.

Ladies and gentlemen, good morning. Actually, good afternoon.

My name is Arthur Inden. I am one of the attorneys representing the plaintiff in this case. . . .

His Honor, in his opening remarks to you, said that you are a special jury, and that has special connotations. You are a special jury. You have been selected out of numerous people because of your special attributes, and this is a special case, and that's why a special jury was selected.

The Plaintiff may address the jury.

MR. INDEN: Thank you, Your Honor. . . .

This is a very important case. When I started out on December 1st and had the opportunity to address you, I hold you that it was a special case and that you were a special jury, and you know that many were called but only a few were chosen to serve on this jury. I think that is said somewhere in the Bible, "Many were called, but few were chosen." You were chosen as a special jury.

. . . .

We don't know you. I don't know you. You don't know me, except what you've seen in this courtroom. That's a very large burden that you carry, and we know it. But we are here and we are going to put our chest out, and and we are going to let you decide this case and let you deal with the issues in this case, let you determine what the truth is and what the right is in this case, as you have sworn to do. I know you will do it, and you will do it well. You are a good Delaware jury.

FRANCIS XAVIER TANNIAN, called as a witness on the part and behalf of the plaintiff, after having been first duly sworn according to law, was examined and testified as follows:

. . . .

Q. . . . . How much time do you spend preparing a case of this kind?

A. A case of this kind, which is an exceptional case, is very burdensome, and I would—I don't know how many hours a case of this particular kind would take, but certainly it would be forty to sixty hours, I would guess, perhaps more.

IN THE
SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

CIVIL ACTION No. 1441, 1976

Lillian M. Haas, et al

Plaintiff

vs.

United Technologies Corp., et al

Defendant

SPECIAL JURORS

1. Anderson, Sylvia S., 705 Dorcaster Drive, Wilmington, 19808.
2. Bakey, David John, 105 South Clifton Avenue, Wilmington, 19805.
3. Brill, W. R., 913 Branch Road, Newark, 19711.
4. Burns, Joseph H., Jr., 55 N. Avon Drive, Claymont, 19703.
5. Chalker, William R., 41 Bridle Brook Lane, Newark, 19711.
6. Clark, Frank A., 36 Kensington Lane, Newark, 19713.
7. Connor, June S., 108 Stimson Place, Wilmington, 19810.
8. Downs, Michael Thomas, 6 Kingston Drive, Kingston Acres, Bear, 19701.
9. Esker, Mary Leslie, 209 Washington Avenue, Wilmington, 19808.
10. Galford, Leona M., 126 Harmony Street, New Castle, 19720.

11. Hartsky, Jean A., 2210 Kentmere Parkway, Wilmington, 19806.
12. Hemphill, Virgil D., 4509 Kingsgate Lane, Wilmington, 19808.
13. Hicken, Leonard W., 116 Kenmark Road, Todd Estates, Newark, 19713.
14. Hollingsworth, Thomas, Box 183, Old Wilmington Rd., Hockessin, 19707.
15. Houck, James F., 402 S. Lincoln Street, Wilmington, 19805.
16. Johnson, Mary Jane W., 3121 Wilmont Drive, Wilmington, 19810.
17. Jones, Sanford F., 2 Colony Blvd., Apt. 171-A, Wilmington, 19802.
18. Keith, Harry G., Jr., 114 Baldt Avenue, New Castle, 19720.
19. Kellner, Rose, 2212 Nassau Drive, Wilmington, 19810.
20. Knoblock, Fred W., R. D. 2, Box 419, Hockessin, 19707.
21. Lacey, Roland J., 2859 W. Oakland Drive, Wilmington, 19808.
22. Lake, Alice M., 24 Argyle Road, Newark, 19713.
23. Lovell, Margaret W., 22 Dartmouth Road, Cooper Farm, Wilmington, 19808.
24. Lovett, G. Douglas, 19 Gregg Avenue, Wilmington, 19807.
25. MacCormac, Joseph M., 2220 Regal Drive, Wilmington, 19810.
26. Marin, Robert A., 108 Sonant Drive, Newark, 19713.
27. McMahan, Marion E., 2614 West Street, Wilmington, 19802.

28. Means, Wesley, 1805 N. Market Street, Wilmington, 19802.
29. Miller, John Z., 110 Kells Avenue, Newark, 19711.
30. Moltenbrey, Ronald A., 26-K Walnut Hill Ct., Hockessin, 19707.
31. Nichols, James F., 2404 Raven Road, Wilmington, 19810.
32. Peirson, David R., Box 386-B, Bear, 19701.
33. Pennington, Louine, 128 School Road, Alapocas, Wilmington, 19803.
34. Poulos, Ann Duncan, Rt. 2, Box 78, Auburn Mill Rd., Hockessin, 19707.
35. Ray, William O., 458 Walthers Road, Newark, 19702.
36. Reinke, Norman E., 18 Havertown Road, Newark, 19713.
37. Reynolds, William D., Sr., 410 N. Broom Street, Wilmington, 19805.
38. Robinson, John H., 72 Welsh Tract Road, #204, Newark, 19713.
39. Robinson, Richard W., III, 8 Melanie Drive, Melanie Woods, New Castle, 19720.
40. Rowland, Jeanne T., 2303 Riddle Avenue, Wilmington, 19806.
41. Scotton, Agnes T., 902 Dallam Road, Newark, 19711.
42. Searl, Clinton N., 2641 Foulk Road, Wilmington, 19810.
43. Shah, Mahendra H., 1313 Grinnell Road, Wilmington, 19803.
44. Smith, Frederick S., R. D. #1, Box 205A, Southwood Rd., Hockessin, 19707.

45. Stone, Bernard J., Jr., 2310 Mousley Place, Wilmington, 19810.
46. Stozek, Robert L., 203 Briar Lane, Newark, 19711.
47. Streck, William L., 2107 Dunhill Drive, Wilmington, 19810.
48. Sullivan, Arthur J., Rt. #1, Box 457 Hockessin, 19707.
49. Taylor, Sara E., 1411 West Street, Wilmington, 19801.
50. Toner, William E., 58 Lower Valley Lane, Newark, 19711.
51. Townsend, Louis Arnold, 505 Ruxton Drive, Wilmington, 19809.
52. Truax, David H., 80 Old Farm Road, Newark, 19711.
53. Tush, Wayne S., Box 369, Summit Bridge Road, Middletown, 19709.
54. Vayo, Michael, 114 White Fawn Road, Newark, 19711.
55. Weldin, A. Barbara, 216 Werden Drive, Llangollen Ests., New Castle, 19720.
56. Whaley, Dorsey E., 53 Holly Lane, Newark, 19711.

/s/ GEORGE J. FISHER
Prothonotary

October 14, 1980

cc: B. T. Castle, Esquire
R. M. Layton, Esquire
A. M. Terrell, Jr., Esquire

Colarecchi Sandra
2304 Darley Woods Road
Wilmington, Delaware 19810

SUPERIOR COURT
STATE OF DELAWARE
JUROR QUALIFICATION FORM

Please print or type your answers.
If more space is needed, use other side.

If you are unable to fill out this form, another shall do it for you and shall indicate that he has done so and the reasons therefor.

Any person who fails to return a completed juror qualification form as instructed may be summoned by the jury commissioners forthwith to appear before the jury commissioners to fill out a juror qualification form.

Information with respect to religion, national origin or economic status is not a prerequisite to qualification for jury service. Such information need not be furnished if you find it objectionable to do so.

Information concerning race is required solely to enforce nondiscrimination in jury selection and has no bearing on your qualification for jury service.

Sandra Colarecchi	Secretary/American Life Insurance
Name	Occupation & Employer
2304 Darley Woods Road	Single
Street Address	Marital Status
Wilmington, Delaware 19810	
City, State, and Zip Code	Spouse's Occupation & Employer
475-8217/428-3967	10 Years
Home & Business Telephone Numbers	Length of Residence in County
221-42-5582	College—Associate Degree
Social Security Number	Level of Education
3/5/54 / 25	White
Date of Birth and Age	Race

1. Are you a citizen of the United States of America? *YES.*

2. Are you able to read, write, speak, and understand the English language? *YES.*

3. Do you have any physical or mental infirmity impairing your capacity to serve as a juror? *NO.*

4. Have you been convicted in a State or Federal court, or is there pending against you a charge for the commission, of a crime punishable by imprisonment for more than one year? *NO.*

5. Are you a member in active service in the armed forces of the United States or the Delaware State Guard? *NO.*

6. Are you a member of the fire or police departments of the State or a subdivision thereof? *NO.*

7. Are you actively engaged in the performance of official duties as a public officer who is either elected to public office or directly appointed by a person elected to public office in the executive, legislative, or judicial branches of the governments of the United States or of the State or a subdivision thereof? *NO.*

8. Have you served as a juror before? *NO.*

9. Do you have a close friend or relative who is a police officer or is employed in the office of the Attorney General or is otherwise employed by a law enforcement agency? *NO.*

10. Do you request excuse from jury service on the basis of any of the grounds listed in the attached sheet? *NO.*

I swear or affirm that the responses in this form are true to the best of my knowledge.

May 1, 1979 SANDRA COLARECCHI

Any person who fails to show good cause for noncompliance with a summons may be fined not more than $100 or imprisoned not more than 3 days, or both.

Any person who wilfully misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror may be fined not more than $100 or imprisoned not more than 3 days, or both.

SPACE FOR OFFICIAL USE ONLY Disqualified—Exempt—

Excused—Excluded—

Reasons:

Susan J. Widener
5 Prince Avenue
New Castle, DE 19720

SUPERIOR COURT
STATE OF DELAWARE
JUROR QUALIFICATION FORM

Please print or type your answers.
If more space is needed, use other side.

If you are unable to fill ou this form, another shall do it for you and shall indicate that he has done so and the reasons therefor.

Any person who fails to return a completed juror qualification form as instructed may be summoned by the jury commissioners forthwith to appear before the jury commissioners to fill out a juror qualification form.

Information with respect to religion, national origin or economic status is not a prerequisite to qualification for jury service. Such information need not be furnished if you find it objectionable to do so.

Information concerning race is required solely to enforce nondiscrimination in jury selection and has no bearing on your qualification for jury service.

Susan Widener Kreuer	Administrative Officer/ State Fire Marshal's Off.
Name	Occupation & Employer
5 Prince Avenue	Married
Street Address	Marital Status
New Castle, DE 19720	Sales Rep. Sears Roebuck
City, State, and Zip Code	Spouse's Occupation & Employer
654-1150/571-3013	25 years
Home & Business Telephone Numbers	Length of Residence in County
221-44-4375	College Grad
Social Security Number	Level of Education
5/27/55 / 25	White
Date of Birth and Age	Race

1. Are you a citizen of the United States of America? *YES.*
2. Are you able to read, write, speak, and understand the English language? *YES.*
3. Do you have any physical or mental infirmity impairing your capacity to serve as a juror? *NO.*
4. Have you been convicted in a State or Federal court, or is there pending against you a charge for the commission, of a crime punishable by imprisonment for more than one year? *NO.*
5. Are you a member in active service in the armed forces of the United States or the Delaware State Guard? *NO.*
6. Are you a member of the fire or police departments of the State or a subdivision thereof? *NO.*
7. Are you actively engaged in the performance of official duties as a public officer who is either elected to public office or directly appointed by a person elected to public office in the executive, legislative, or judicial branches of the governments of the United States or of the State or a subdivision thereof? *NO.*

8. Have you served as a juror before? *NO.*
9. Have you ever been or do you have a close friend or relative who is or was employed in a police department, the office of the Attorney General, or any other law enforcement agency? *YES.* If your answer is yes, please give the person's name, relationship to you, position, and name of agency: At present I am in the employ of a law enforcement agency—State Fire Marshal's Office.
10. Have you ever been or do you have a close friend or relative who is or was employed by an insurance or claims adjustment company? *YES.* If your answer is yes, please give the person's name, relationship to you, position, and name of employer: My work calls for working w/many insurance and claims adjustment companies.
11. Are you a stockholder in an insurance company which issues accident or casualty insurance? *NO.*
12. Do you request excuse from jury service on the basis of any of the grounds listed in the attached sheet? *NO.*

I swear or affirm that the responses in this form are true to the best of my knowledge.

Monday, Sept. 29, 1980 SUSAN WIDENER KREUER

Any person who fails to show good cause for noncompliance with a summons may be fined not more than $100 or imprisoned not more than 3 days, or both.

Any person who wilfully misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror may be fined not more than $100 or imprisoned not more than 3 days, or both.

SPACE FOR OFFICIAL USE ONLY Disqualified—Exempt—Excused—Excluded—

Reasons:

Robert A. Marin
108 Sonant Dr.
Newark, DE 19713

SUPERIOR COURT
STATE OF DELAWARE
JUROR QUALIFICATION FORM

Please print or type your answers.
If more space is needed, use other side.

If you are unable to fill ou this form, another shall do it for you and shall indicate that he has done so and the reasons therefor.

Any person who fails to return a completed juror qualification form as instructed may be summoned by the jury commissioners forthwith to appear before the jury commissioners to fill out a juror qualification form.

Information with respect to religion, national origin or economic status is not a prerequisite to qualification for jury service. Such information need not be furnished if you find it objectionable to do so.

Information concerning race is required solely to enforce nondiscrimination in jury selection and has no bearing on your qualification for jury service.

R. A. Marin	
Name	Occupation & Employer
108 Sonant Dr.	
Street Address	Marital Status
Newark, DE 19713	
City, State, and Zip Code	Spouse's Occupation & Employer
302/774-1326	
Home & Business Telephone Numbers	Length of Residence in County
072-46-7369	
Social Security Number	Level of Education
3-20-53 / 27	
Date of Birth and Age	Race

1. Are you a citizen of the United States of America? *YES.*
2. Are you able to read, write, speak, and understand the English language? *YES.*
3. Do you have any physical or mental infirmity impairing your capacity to serve as a juror? *NO.*
4. Have you been convicted in a State or Federal court, or is there pending against you a charge for the commission, of a crime punishable by imprisonment for more than one year? *NO.*
5. Are you a member in active service in the armed forces of the United States or the Delaware State Guard? *NO.*
6. Are you a member of the fire or police departments of the State or a subdivision thereof? *NO.*
7. Are you actively engaged in the performance of official duties as a public officer who is either elected to public office or directly appointed by a person elected to public office in the executive, legislative,

or judicial branches of the governments of the United States or of the State or a subdivision thereof? *NO.*

8. Have you served as a juror before? *YES.* If your answer is yes, when and where? Wilmington, DE, April 1980.

9. Have you ever been or do you have a close friend or relative who is or was employed in a police department, the office of the Attorney General, or any other law enforcement agency? *NO.*

10. Have you ever been or do you have a close friend or relative who is or was employed by an insurance or claims adjustment company? *NO.*

11. Are you a stockholder in an insurance company which issues accident or casualty insurance? *NO.*

12. Do you request excuse from jury service on the basis of any of the grounds listed in the attached sheet? *YES.* If your answer is yes, explain the ground of your claim: #11, I served as a petit juror this year.

I swear or affirm that the responses in this form are true to the best of my knowledge.

9-24-80 /s/ ROBERT A. MARIN

Any person who fails to show good cause for noncompliance with a summons may be fined not more than $100 or imprisoned not more than 3 days, or both.

Any person who wilfully misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror may be fined not more than $100 or imprisoned not more than 3 days, or both.

SPACE FOR OFFICIAL USE ONLY Disqualified—Exempt—
Excused—Excluded—

Reasons:

Miller Robert R.
423 East 35th St.
Wilm., DE. 19802

SUPERIOR COURT
STATE OF DELAWARE
JUROR QUALIFICATION FORM

(Please print or type your answers.)

If you are unable to fill out this form, another shall do it for you and shall indicate that he has done so and the reasons therefore.

Any person who fails to return a completed juror qualification form as instructed may be summoned by the jury commissioners forthwith to appear before the jury commissioners to fill out a juror qualification form.

Information with respect to religion, national origin or economic status is not a prerequisite to qualification for jury service. Such information need not be furnished if you find it objectionable to do so.

Information concerning race is required solely to enforce nondiscrimination in jury selection and has no bearing on your qualification for jury service.

Robert R. Miller	None
Name	Occupation & Employer
423 East 35th	
Street Address	Marital Status
Wilm., Delaware 19802	
City, State, and Zip Code	Spouse's Occupation & Employer
764261	Born
Home & Business Telephone Numbers	Length of Residence in County
221-40-7326	College
Social Security Number	Level of Education
6-24-54 / 25	Black
Date of Birth and Age	Race

1. Are you a citizen of the United States of America? *YES.*
2. Are you able to read, write, speak, and understand the English language? *YES.*
3. Do you have any physical or mental infirmity impairing your capacity to serve as a juror? *NO.*
4. Have you been convicted in a State or Federal court, or is there pending against you a charge for the commission, of a crime punishable by imprisonment for more than one year? *NO.*
5. Are you a member in active service in the armed forces of the United States or the Delaware State Guard? *NO.*
6. Are you a member of the fire or police departments of the State subdivision thereof? *NO.*
7. Are you actively engaged in the performance of official duties as a public officer who is either elected to public office or directly appointed by a person elected to public office in the executive, legislative,

or judicial branches of the governments of the United States or of the State or a subdivision thereof? *NO.*

8. Have you served as a juror before? *NO.*

9. Do you have a close friend or relative who is a police officer or employed in the office of the Attorney General or is otherwise employed by a law enforcement agency? *YES.* If your answer is yes, please give the person's name, relationship to you, and agency to whom he or she is employed: My mother is a CPA Lina Houston Traffic officer. In City of Wilm., Del.

10. Do you request excuse from jury service on the basis of any of the grounds listed in the attached sheet? *NO.*

I swear or affirm that the responses in this form are true to the best of my knowledge.

9-24-79 ROBERT R. MILLER

Any person who fails to show good cause for noncompliance with a summons may be fined not more than $100 or imprisoned not more than 3 days, or both.

Any person who wilfully misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror may be fined not more than $100 or imprisoned not more than 3 days, or both.

SPACE FOR OFFICIAL USE ONLY Disqualified—Exempt—
Excused—Excluded—

Reasons:

Michael F. Vayo
114 White Fawn Road
Newark, DE 19711

SUPERIOR COURT
STATE OF DELAWARE
JUROR QUALIFICATION FORM

Please print or type your answers.
If more space is needed, use other side.

If you are unable to fill out this form, another shall do it for you and shall indicate that he has done so and the reasons therefor.

Any person who fails to return a completed juror qualification form as instructed may be summoned by the jury commissioners forthwith to appear before the jury commissioners to fill out a juror qualification form.

Information with respect to religion, national origin or economic status is not a prerequisite to qualification for jury service. Such information need not be furnished if you find it objectionable to do so.

Information concerning race is required solely to enforce nondiscrimination in jury selection and has no bearing on your qualification for jury service.

Michael Vayo	F.I. Du Pont Co.
Name	Occupation & Employer
114 White Fawn Rd.	Single until Oct. 2
Street Address	Marital Status
Newark, Del. 19711	
City, State, and Zip Code	Spouse's Occupation & Employer
H-568-2858/W 999-6173	
Home & Business Telephone Numbers	Length of Residence in County
222-38-0758	
Social Security Number	Level of Education
4-23-52 / 28	
Date of Birth and Age	Race

1. Are you a citizen of the United States of America? *YES.*
2. Are you able to read, write, speak, and understand the English language? *YES.*
3. Do you have any physical or mental infirmity impairing your capacity to serve as a juror? *NO.*
4. Have you been convicted in a State or Federal court, or is there pending against you a charge for the commission, of a crime punishable by imprisonment for more than one year? *NO.*
5. Are you a member in active service in the armed forces of the United States or the Delaware State Guard? *NO.*
6. Are you a member of the fire or police departments of the State or a subdivision thereof? *NO.*
7. Are you actively engaged in the performance of official duties as a public officer who is either elected to public office or directly appointed by a person

elected to public office in the executive, legislative, or judicial branches of the governments of the United States or of the State or a subdivision thereof? *NO.*

8. Have you served as a juror before? *NO.*

9. Have you ever been or do you have a close friend or relative who is or was employed in a police department, the office of the Attorney General, or any other law enforcement agency? *NO.*

10. Have you ever been or do you have a close friend or relative who is or was employed by an insurance or claims adjustment company? *NO.*

11. Are you a stockholder in an insurance company which issues accident or casualty insurance? *NO.*

12. Do you request excuse from jury service on the basis of any of the grounds listed in the attached sheet? *NO.*

I swear or affirm that the responses in this form are true to the best of my knowledge.

9-23-80 MICHAEL F. VAYO

Any person who fails to show good cause for noncompliance with a summons may be fined not more than $100 or imprisoned not more than 3 days, or both.

Any person who wilfully misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror may be fined not more than $100 or imprisoned not more than 3 days, or both.

SPACE FOR OFFICIAL USE ONLY Disqualified—Exempt—

Excused—Excluded—

Reasons: